

hand-in-hand to Capitol Hill with a simple demand: to keep them safe from guns.

Members of Congress should tune out the NRA, and start listening to these children—who have to face the fear of guns everyday. The children from across the country are pleading that Congress create an environment free from fear and violence. These children are armed, not with firearms, but with letters, urging Congress to end the epidemic of gun violence that claims the lives of thousands of their peers each year.

Yet, while Congress should be passing comprehensive legislation to prevent school shootings like those in Conyers, Littleton, Springfield, Edinboro, Jonesboro, West Paducah, Pearl and the many others, it cannot even muster enough votes to take UZIs and AK-47s out of the hands of 15 year olds. After Columbine, the Senate took a few steps to protect children from gun violence. We passed legislation to prohibit juveniles from owning semiautomatic weapons and large capacity ammunition devices. We passed an amendment to require that handguns be sold with trigger locking devices to protect children. And we passed an amendment to close the gun show loophole, ensuring juveniles and others cannot use these shows as a convenient way to circumvent the safeguards applied to normal sales through licensed gun dealers.

That legislation was a first step, but it still falls short of closing loopholes which allow our youth easy access to deadly weapons. For example, one of our most important tasks yet will be to ban handguns and semiautomatic assault weapons for persons under 21 years of age. Yet, even the most minimal effort to end gun violence has been stymied in the House of Representatives, where they have passed no gun safety legislation. And any effort to come to some agreement has been repeatedly stalled by the Republican leadership.

It was great to welcome such a group of dedicated young people to the nation's Capitol. I encourage them to keep up their effort and to speak out for those children who have been silenced by guns. Over time, these children are sure to accomplish what other nations have done: end the plague of gun violence.

LONG-PENDING JUDICIAL NOMINATIONS BEFORE THE SENATE

Mr. LEAHY. Mr. President, I thank the Majority Leader for the proposal he made to the Senate last night on moving a portion of the Executive Calendar. I would like to see those nominees he mentioned confirmed as well as the others on the calendar. I want to work with him to have them all considered and confirmed. I want to be sure that the Senate treats them all fairly

and accords each of them an opportunity for an up or down vote. I want to share with you a few of the cases that cry out for a Senate vote:

The first is Judge Richard Paez. He is a judicial nominee who has been awaiting consideration and confirmation by the Senate since January 1996—for over 3½ years. The vacancy for which Judge Paez was nominated became a judicial emergency during the time his nomination has been pending without action by the Senate. His nomination was first received by the Senate almost 45 months ago and is still without a Senate vote. That is unconscionable.

Judge Paez has twice been reported favorably by the Senate Judiciary Committee to the Senate for final action. He is again on the Senate calendar. He was delayed 25 months before finally being accorded a confirmation hearing in February 1998. After being reported by the Judiciary Committee initially in March 1998, his nomination was held on the Senate Executive Calendar without action or explanation for over 7 months, for the remainder of the last Congress.

Judge Paez was renominated by the President again this year and his nomination was stalled without action before the Judiciary Committee until late July, when the Committee reported his nomination to the Senate for the second time. The Senate refused to consider the nomination before the August recess. I have repeatedly urged the Republican leadership to call this nomination up for consideration and a vote. The Republican leadership in the Senate has refused to schedule this nomination for an up or down vote.

Judge Paez has the strong support of both California Senators and a 'well-qualified' rating from the American Bar Association. He has served as a municipal judge for 13 years and as a federal judge for four years.

In my view Judge Paez should be commended for the years he worked to provide legal services and access to our justice system for those without the financial resources otherwise to retain counsel. His work with the Legal Aid Foundation of Los Angeles, the Western Center on Law and Poverty and California Rural Legal Assistance for 9 years should be a source of praise and pride.

Judge Paez has had the strong support of California judges and law enforcement representatives familiar with his work, such as Justice H. Walter Crosky, and support from an impressive array of law enforcement officials, including Gil Garcetti, the Los Angeles District Attorney; the late Sherman Block, then Los Angeles County Sheriff; the Los Angeles County Police Chiefs' Association; and the Association for Los Angeles Deputy Sheriffs.

I have previously commended the Chairman of the Judiciary Committee

for his support of this nominee and Senator BOXER and Senator FEINSTEIN of California for their efforts on his behalf. In the Senate's vote earlier this month on the nomination of Justice Ronnie White, Republican Senators justified their vote by deferring to home state Senators and local law enforcement. When it comes to Judge Paez, he has the strong support of both home state Senators and local law enforcement. Accordingly, I would hope and expect that the Senate will see a strong Republican vote for Judge Paez.

The Hispanic National Bar Association, the Mexican American Legal Defense and Educational Fund, the League of United Latin American Citizens, the National Association of Latino Elected and Appointed Officials, and many, many others have been seeking a vote on this nomination for what now amounts to years.

Last year the words of the Chief Justice of the United States were ringing in our ears with respect to the delays in Senate consideration of judicial nomination. He had written:

Some current nominees have been waiting considerable time for a Senate Judiciary Committee vote or a final floor vote. . . . The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down.

Richard Paez's nomination to the Ninth Circuit had already been pending for 24 months when the Chief Justice issued that statement—and that was almost 2 years ago. The Chief Justice's words resound in connection with the nomination of Judge Paez. He has twice been reported favorably by the Judiciary Committee. It was been pending for 45 months. The court to which he was nominated has multiple vacancies. In fairness to Judge Paez and all the people served by the Ninth Circuit, the Senate should vote on this nomination.

I have been concerned for the last several years that it seems women and minority nominees are being delayed and not considered. I spoke to the Senate about this situation on May 22, June 22 and, again, on October 8 last year, and a number of times this year, including on October 15 and October 21. Over the last couple of years the Senate has failed to act on the nominations of Judge James A. Beaty, Jr. to be the first African-American judge on the Fourth Circuit; Jorge C. Rangel to the Fifth Circuit; Clarence J. Sundram to the District Court for the Northern District of New York; Anabelle Rodriguez to the District Court in Puerto Rico; and many others.

In explaining why he chose to withdraw from consideration for renomination after waiting 15 months for Senate action, Jorge Rangel wrote to the President and explained:

Our judicial system depends on men and women of good will who agree to serve when

asked to do so. But public service asks too much when those of us who answer the call to service are subjected to a confirmation process dominated by interminable delays and inaction. Patience has its virtues, but it also has its limits.

Last year the average for all nominees confirmed was over 230 days and 11 nominees confirmed last year took longer than 9 months: Judge William Fletcher's confirmation took 41 months—it became the longest-pending judicial nomination in the history of the United States, a record now held by Judge Paez; Judge Hilda Tagle's confirmation took 32 months, Judge Susan Oki Mollway's confirmation took 30 months, Judge Ann Aiken's confirmation took 26 months, Judge Margaret McKeown's confirmation took 24 months, Judge Margaret Morrow's confirmation took 21 months, Judge Sonia Sotomayor's confirmation took 15 months, Judge Rebecca Pallmeyer's confirmation took 14 months, Judge Ivan Lemelle's confirmation took 14 months, Judge Dan Polster's confirmation took 12 months, and Judge Victoria Roberts' confirmation took 11 months. Of these 11, 8 are women or minority nominees. Another was Professor Fletcher who was held up, in large measure because of opposition to his mother, Judge Betty Fletcher.

In 1997, of the 36 nominations eventually confirmed, 9, fully one-quarter of all those confirmed, took more than 9 months before a final favorable Senate vote.

In 1996, the Republican Senate shattered the previous record for the average number of days from nomination to confirmation for judicial confirmation. The average rose to a record 183 days. In 1997, the average number of days from nomination to confirmation rose dramatically yet again, and that was during the first year of a presidential term. From initial nomination to confirmation, the average time it took for Senate action on the 36 judges confirmed in 1997 broke the 200-day barrier for the first time in our history. It was 212 days.

Unfortunately, that time grew again last year to the detriment of the administration of justice. Last year the Senate broke its dismal record. The average time from nomination to confirmation for the 65 judges confirmed in 1998 was over 230 days. The independent and bipartisan study of Task Force on Judicial Selection formed by Citizens for Independent Courts recently confirmed what I have been observing for the past few years—the time to consider judicial nominations has been increased significantly over the last few years and women and minority judicial nominees are more likely to take significantly longer to be considered, if they are considered at all.

We have had too many cases in which it has taken women nominees years before the Judiciary Committee would

act and the Senate would vote. Eventually, we have been able to confirm many of these outstanding nominees, people like Margaret Morrow, Sonia Sotomayor, Ann Aiken, Margaret McKeown and Susan Oki Mollway. The current victim of the extensive delays caused by unusually intensive scrutiny of many women judicial nominees is Marsha Berzon.

Marsha Berzon is one of the most qualified nominees I have seen in 25 years, and Senator HATCH has agreed with that assessment publicly. He voted for her in the Judiciary Committee. Her legal skills are outstanding, her practice and productivity have been extraordinary. Lawyers against whom she has litigated regard her as highly qualified for the bench. She was first nominated in January 1998, some 20 months ago. Her nomination remains the subject of "secret holds" from anonymous Senate Republicans.

Senator FEINSTEIN has made the point that it may be subtle forms of disparate treatment and double standards to which these nominations are subjected. She has lectured the Committee and the Senate from time to time on our insensitivity to the experiences of these nominees. Women still do not have the good old boy network of some nominees and often show leadership and get experience by being involved in community activities and with charities and with organizations that some conservative Republicans apparently view negatively and with suspicion.

Marsha Berzon is an outstanding nominee. By all accounts, she is an exceptional lawyer with extensive appellate experience, including a number of cases heard by the Supreme Court. She has the strong support of both California Senators and a well-qualified rating from the American Bar Association.

She was initially nominated in January 1998, 21 months ago. She participated in an extensive two-part confirmation hearing before the Committee back on July 30, 1998. Thereafter she received a number of sets of written questions from a number of Senators and responded in August of last year. A second round of written questions was sent and she responded by the middle of September of last year. Despite the efforts of Senator FEINSTEIN, Senator KENNEDY, Senator SPECTER and myself to have her considered by the Committee, she was not included on an agenda and not voted on during all of 1998. Her nomination was returned to the President without action by this Committee or the Senate last October.

This year the President renominated Ms. Berzon in January. She participated in her second confirmation hearing in June, was sent additional sets of written questions, responded and got

and answered another round. I do not know why those questions were not asked last year.

Finally, on July 1 almost 4 months ago, the Committee considered the nomination and agreed to report it to the Senate favorably. After more than a year and one-half the Senate should, at long last, vote on the nomination. Senators who find some reason to oppose this exceptionally qualified woman lawyer can vote against her if they choose, but she should be accorded an up or down vote. That is what I have been asking for and that is what fairness demands.

Senator HATCH was right 2 years ago when he called for an end to the political game that has infected the confirmation process. These are real people whose lives are affected. Judge Richard Paez has been waiting patiently for 45 months, almost 4 years, for the Republican Senate to vote on his nomination, a nomination that Senator HATCH voted for twice. Marsha Berzon has been held hostage for 21 months not knowing what to make of her private practice or when the Senate will deem it appropriate to finally vote on her nomination.

Last week I received a Resolution from the National Association of Women Judges. I hope that the Senate will respond to Resolution, in which the NAWJ urges expeditious action on nominations to federal judicial vacancies. The President of the Women Judges, Judge Mary Schroeder, is right when she cautions that "few first-rate potential nominees will be willing to endure such a tortured process" and the country will pay a high price for driving away outstanding candidates to fill these important positions. The Resolution notes the scores of continuing vacancies with highly qualified women and men nominees and the nonpartisan study of delays in the confirmation process, and even more extensive delays for women nominees, found by the Task Force on Judicial Selection formed by Citizens for Independent Courts. The Resolution notes that such delay "is costly and unfair to litigants and the individual nominees and their families whose lives and career are on hold for the duration of the protracted process." In conclusion, the National Association of Women Judges "urges the Senate of the United States to bring the pending nominations for the federal judiciary to an expeditious vote so that those who have been nominated can get on with their lives and these vacancies can be filled."

Although this is not just about numbers, the numbers are damning. So far this year the Senate has received 70 judicial nominations and confirmed only 25. By this time last year, the Senate had confirmed 66 judges—more than twice as many. By this time in 1992, the last year of President Bush's term, a Democratic Senate had confirmed 64

judges. By this time in 1994, a Democratic Senate had confirmed over 100 judges.

There are judicial emergencies vacancies all over the country. The Fifth Circuit Court of Appeals has had to declare that entire Circuit in an emergency. Its workload has gone up 65 percent in the last 9 years; but they are being forced to operate with almost one-quarter of their bench vacant. The Senate has not given any attention to the two nominees pending in Committee—either Enrique Moreno or Alston Johnson.

We had a similar emergency a year or so ago in the Second Circuit. We finally ended that crisis when we fought through secret Republican holds and got the Senate after 15 months to vote on the nomination of Judge Sonia Sotomayor. She was confirmed overwhelmingly.

At the time I was struck by an article by Paul Gigot in the Wall Street Journal, which explained why Judge Sotomayor was being held up—it was not because she was not qualified to serve on the Second Circuit but because some felt that she was so well qualified President Clinton might nominate her to the United States Supreme Court if a vacancy were to arise. Imagine that, anonymous holds to ensure that a superbly talented Hispanic woman judge not be seen as a good bet to nominate to the Supreme Court. I fear that the opposition to Marsha Berzon may partake of some of this kind of thinking. She is so well qualified, so clearly likely to be an outstanding judge on the Ninth Circuit, that perhaps some anonymous Republican Senators are afraid that she will be too good, that her opinions will be too well reasoned that her application of the law will be too sound.

Weeks ago the Majority Leader came to the floor and said that he would try to find a way to have the Paez and Berzon nominations considered by the Senate. I have tried to work with Majority Leader on all of these nominations. I would like to work with those Senators whom the Majority Leader is protecting from having to vote on the Paez and Berzon nominations, but I do not know who they are. Despite the policy announced at the beginning of this year doing away with “secret holds,” that is what Judge Paez and Marsha Berzon still confront as their nominations continue to be obstructed under a cloak of anonymity after 45 months and 21 months, respectively. That is wrong and unfair.

This continuing delay demeans the Senate, itself. I have great respect for this institution and its traditions. Still, I must say that this use of secret holds for extended periods that doom a nomination from ever being considered by the United States Senate is wrong and unfair and beneath us. Who is it that is afraid to vote on these nomina-

tions? Who is it that is hiding their opposition and obstruction of these nominees? After almost 4 years with respect to Judge Paez and almost 2 years with respect to Marsha Berzon, it is time for the Senate to vote up-or-down on these nominations.

The Senate should be fair and vote on these nominations. Anonymous Republican Senators are being unfair to the judicial nominees on the calendar. These qualified nominees are entitled to an up or down vote, too.

The Atlanta Constitution noted recently:

Two U.S. appellate court nominees, Richard Paez and Marsha Berzon, both of California, have been on hold for four years and 20 months respectively. When Democrats tried . . . to get their colleagues to vote on the pair at long last, the Republicans scuttled the maneuver. . . . This partisan stalling, this refusal to vote up or down on nominees, is unconscionable. It is not fair. It is not right. It is no way to run the federal judiciary. . . . This ideological obstructionism is so fierce that it strains our justice system and sets a terrible partisan example for years to come.

It is against this backdrop that I, again, ask the Senate to be fair to these judicial nominees and all nominees. For the last few years the Senate has allowed one or two or three secret holds to stop judicial nominations from even getting a vote. That is wrong.

The Washington Post has noted:

[T]he Constitution does not make the Senate's role in the confirmation process optional, and the Senate ends up abdicating responsibility when the majority leader denies nominees a timely vote. All the nominees awaiting floor votes . . . should receive them immediately.

The Florida Sun-Sentinel has written:

The “Big Stall” in the U.S. Senate continues, as senators work slower and slower each year in confirming badly needed federal judges. . . . This worsening process is inexcusable, bordering on malfeasance in office, especially given the urgent need to fill vacancies on a badly undermined federal bench. . . . The stalling, in many cases, is nothing more than a partisan political dirty trick.

Nominees deserve to be treated with dignity and dispatch—not delayed for 2 and 3 and 4 years. I continue to urge the Republican Senate leadership to proceed to vote on the nominations of Judge Richard Paez and Marsha Berzon. There was never a justification for the Republican majority to deny these judicial nominees a fair up or down vote. There is no excuse for their continuing failure to do so.

Acting to fill judicial vacancies is a constitutional duty that the Senate—and all of its members—are obligated to fulfill. In its unprecedented slowdown in the handling of nominees since the 104th Congress, the Senate is shirking its duty. That is wrong and should end. These are the nominations that the Senate on which the Senate should be working toward action.

I understand that nominations are not considered in lockstep order based on the date of receipt. I understand and respect the prerogatives of the majority party and the Republican leader. I do not want to oppose any nomination on the calendar and only ask that the Senate be fair to these other nominees, as well. Nominees like Judge Richard Paez and Marsha Berzon should be voted on up or down by the Senate. We are asking and have been asking the Republican leadership to schedule votes on those nominations so that action on all the nominations can move forward.

I know that there were no objections on the Democratic side of the aisle to the three judicial nominations that the Majority Leader included in his proposal last night. No Democrat has a hold on the nominations of Judge Florence-Marie Cooper, Barbara Lynn or Ronald Gould. No Democrat has any objection to proceeding to confirm by voice vote or to proceed to roll call votes on these nominations. No Democratic Senator has any objection to proceeding to confirm by voice vote or to proceed to rollcall votes on any of the 9 judicial nominations on the Senate's executive calendar. What we do ask is that Judge Paez and Marsha Berzon not be left on the calendar without a vote at the end of another session of Congress. We have been unable even to obtain a commitment from the Majority Leader to schedule a fair up or down vote on these nominations at any time in the future. We respectfully request his help in scheduling such action by the Senate.

IN MEMORY OF R. DUFFY WALL

Mr. BURNS. Mr. President, this has not been a good week—losing a friend and colleague; Payne Stewart, and, yes, another friend here in this town who had a government relations job.

We often hear the word “lobbyist” put in a negative tone, but this was a man who built a reputation of integrity and honesty in government relations.

This week, cancer claimed R. Duffy Wall. He died at his home on the Eastern Shore. He was friend and mentor.

You know what we would be without the folks who work in different areas of American life who represent that way of life to the Congress of the United States. We are not all wise. We do not know everything about everything. We need help. Duffy Wall was such a person—honest, straight shooter, a friend, dead at age 57, far too young. We will not get to use his services and wisdom anymore either.

I could talk longer about these friends. This has been a bad week, especially losing our Senator and losing a person very close to us.

Mr. President, I ask unanimous consent that the notes on Mr. Wall and his obituary be printed in the RECORD.